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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 748

[Docket No. 130322279-3279-01]

RIN 0694-AF90

Amendments to Existing Validated End-User Authorizations: CSMC Technologies Corporation in the People's Republic of China (PRC)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to revise the existing Authorization Validated End-User (VEU) listing for CSMC Technologies Corporation (CSMC) in the People's Republic of China (PRC). Specifically, BIS amends Supplement No. 7 to part 748 of the EAR to update VEU CSMC's current list of "eligible destinations."

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, Chair, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street &

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SUPPLEMENTARY INFORMATION:

Background

Authorization Validated End-User

Validated end-users (VEUs) are designated entities located in eligible destinations to which eligible items may be exported, reexported, or transferred (in-country) under a general authorization instead of a license. The names of the VEUs, as well as the date they were so designated, and their respective eligible destinations and items are identified in Supplement No. 7 to part 748 of the EAR. Under the terms described in that supplement, VEUs may obtain eligible items without an export license from BIS, in conformity with Section 748.15 of the EAR. Eligible items vary between VEUs but may include commodities, software, and technology, except those controlled for missile technology or crime control reasons.

VEUs are reviewed and approved by the U.S. Government in accordance with the provisions of Section 748.15 and Supplement Nos. 8 and 9 to part 748 of the EAR. The End-User Review Committee (ERC), composed of representatives from the Departments of State, Defense, Energy and Commerce, and other agencies, as appropriate, is responsible for administering the VEU program. BIS amended the EAR in a final rule published on June 19, 2007 (72 FR 33646) to create Authorization VEU.

Amendment to an Existing Validated End-User Authorization in the PRC

Revisions to the List of Eligible Destinations and Postal Code for CSMC Technologies Corporation

In this rule, BIS amends Supplement No. 7 to part 748 of the EAR to amend CSMC's current list of eligible destinations. Specifically, BIS removes Wuxi CR Semiconductor Wafers and Chips Co., Ltd. from CSMC's list of eligible destinations. BIS is not making this change in response to activities of concern. Rather, BIS is making this change to CSMC's list of VEU-eligible destinations as a result of the merger of Wuxi CR Semiconductor Wafers & Chips Co., Ltd. and CSMC Technologies Fab1 Co., Ltd., which is also listed as one of CSMC's eligible destinations. In addition, BIS amends CSMC's authorization by updating the postal code for one of CSMC's eligible destinations.

Names and Former Addresses of Facilities

Validated End-User:

CSMC Technologies Corporation

Eligible Destinations:

CSMC Technologies Fab 1 Co., Ltd.

14 Liangxi Road

Wuxi, Jiangsu 214061, China

CSMC Technologies Fab 2 Co., Ltd.

8 Xinzhou Rd.

Wuxi National New Hi-Tech Industrial Development Zone

Wuxi, Jiangsu 214061, China

Wuxi CR Semiconductor

Wafers and Chips Co., Ltd.

14 Liangxi Road

Wuxi, Jiangsu 214061, China

Names and Updated Addresses of Facilities

Validated End-User:

CSMC Technologies Corporation

Eligible Destinations:

CSMC Technologies Fab 1 Co., Ltd.

14 Liangxi Road

Wuxi, Jiangsu 214061, China

CSMC Technologies Fab 2 Co., Ltd.

8 Xinzhou Road, Wuxi National New Hi-Tech Industrial Development Zone

Wuxi, Jiangsu 214028, China

Since August 21, 2001, the Export Administration Act (the Act) has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as extended most recently by the Notice of August 15, 2012, 77 FR 49699 (August 16, 2012), has continued the EAR in effect under the International Emergency Economic Powers

Act. BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections previously approved by the Office of Management and Budget (OMB) under Control Number 0694-0088, “Multi-Purpose Application,” which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS-748; and for recordkeeping, reporting and review requirements in connection with Authorization VEU, which carries an estimated burden of 30 minutes per submission. This rule is expected to result in a decrease in license applications submitted to BIS. Total burden hours associated with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and OMB Control Number 0694-0088 are not expected to increase significantly as a result of this rule.

Notwithstanding any other provisions of law, no person is required to respond to, nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because they are unnecessary.

In determining whether to grant VEU designations, a committee of U.S. Government agencies evaluates information about and commitments made by candidate companies, the nature and terms of which are set forth in 15 CFR part 748, Supplement No. 8. The criteria for evaluation by the committee are set forth in 15 CFR 748.15(a)(2).

The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (71 FR 38313 (July 6, 2006) (proposed rule), and 72 FR 33646 (June 19, 2007) (final rule)). Given the similarities between the authorizations provided under the VEU program and export licenses (as discussed further below), the publication of this information does not establish new policy. In publishing this final rule, BIS simply updates the eligible destinations of the named end-user and a portion of their addresses. These changes have been made within the established regulatory framework of the Authorization VEU program. Further, this rule does not abridge the rights of the public or eliminate the public's option to export under any of the forms of authorization set forth in the EAR.

Publication of this rule in other than final form is unnecessary because the authorizations granted in the rule are consistent with the authorizations granted to exporters for individual licenses (and amendments or revisions thereof), which do not undergo public review. In

addition, as with license applications, VEU authorization applications contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such applications. This information is extensively reviewed according to the criteria for VEU authorizations, as set out in 15 CFR 748.15(a)(2). Additionally, just as the interagency reviews license applications, the authorizations granted under the VEU program involve interagency deliberation and result from review of public and non-public sources, including licensing data, and the measurement of such information against the VEU authorization criteria. Given the nature of the review, and in light of the parallels between the VEU application review process and the review of license applications, public comment on this authorization and subsequent amendments prior to publication is unnecessary. Moreover, because, as noted above, the criteria and process for authorizing and administering VEUs were developed with public comments, allowing additional public comment on this amendment to individual VEU authorizations, which was determined according to those criteria, is unnecessary.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the *Federal Register*. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3) because the delay would be contrary to the public interest. BIS is simply amending a VEU authorization by updating the “eligible destinations” of the named end-user and a single postal code. Delaying this action’s effectiveness could cause confusion with the VEU status of the list of companies identified in this rule due to the changes made to that list. Accordingly, it is contrary to the public interest to delay this rule’s effectiveness.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an

opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

Accordingly, Part 748 of the EAR (15 CFR Parts 730 – 774) is amended as follows:

PART 748 – [AMENDED]

1. The authority citation for 15 CFR Part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 15, 2012, 77 FR 49699 (August 16, 2012).

2. Supplement No. 7 to Part 748 is amended by revising the entry for “CSMC Technologies Corporation” in “China (People’s Republic of)” as follows:

**SUPPLEMENT NO. 7 TO PART 748 - AUTHORIZATION VALIDATED END-USER
(VEU); LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR
EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATIONS**

Country	Validated End User	Eligible Items (by ECCN)	Eligible Destination	Federal Register citation
* * *	* * * *	* * * *		
	CSMC Technologies Corporation	1C350.c.3, 1C350.c.11, 2B230.a, 2B230.b, 2B350.f, 2B350.g, 2B350.h, 3B001.c.1.a, 3B001.c.2.a, 3B001.e 3B001.h (except for multilayer masks with a phase shift layer designed to produce “space qualified” semiconductor devices), 3C002.a, and 3C004.	CSMC Technologies Fab 1 Co., Ltd. 14 Liangxi Road Wuxi, Jiangsu 214061, China. CSMC Technologies Fab 2 Co., Ltd. 8 Xinzhou Rd. Wuxi National New Hi-Tech Industrial Development Zone Wuxi, Jiangsu 214028,	76 FR 2802, 1/18/11. 76 FR 37634, 6/28/11. 77 FR 10953, 2/24/12 78 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL

			China.	REGISTER].
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DATED: April 15, 2013

Kevin J. Wolf

Assistant Secretary for

Export Administration

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